

2024:PHHC:143179-DB



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(221)

CWP-2005-2021

Decided on: 04.11.2024

Bhola Khan

.....Petitioner (s)

Versus

State of Punjab & others

.....Respondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MRS.JUSTICE MEENAKSHI I. MEHTA**

Present:- None for the petitioner (s).

Ms.Arundhati Kulshrestha, AAG, Punjab.

Mr.Vikas Singh, Advocate, for respondent No.3.

G.S. Sandhawal, J. (Oral) :

1. Prayer in the present writ petition, filed under Article 226/227 of the Constitution of India is for issuance of direction to the respondents to undertake the survey and initiate appropriate legal action against the private persons who have illegally encroached upon the Panchayat land and remove the same and initiate proceedings against the said persons.

2. The present petition is based on the directions issued on 18.09.2020 and 01.10.2020 by the Co-ordinate Bench in CWP-14662-2020 titled *Dharambir Sharma Vs. State of Haryana & others*. The additional relief has been sought that respondents be directed to stop further construction as per photographs (Annexure P-4). The respondents in question would be the Deputy Commissioner and the Municipal Committee, Bhawanigarh, Tehsil & District Sangrur.

3. Petitioner claims to be owner of total land measuring 9 kanals 2 marlas as per Jamabandi for the year 2013-14, described as

JumlaMustarka Malkan WaDigarHakdaran Deh Hasab

RasadRakbaKhewat. It has been mentioned in the writ petition regarding civil litigation pending before the Civil Court at Bhawanigarh, Sangrur and injunction being declined to one Gurmel Singh on 20.11.2020 (Annexure P-3) while noticing that development work was being done by constructing park and parking space etc.

4. State, in its reply, filed by respondent No.2, the Deputy Commissioner, Sangrur, averred that there is no Gram Panchayat in the town and there is no *Shamlat Deh* land. The land described in the Jamabandi for the year 2013-14 measuring 113 kanals 1 marla is stated to be a matter of record. The Municipal Committee, Bhawanigarh had laid down sewerage pipeline on some portion of the land abutting the road and there was a tubewell also of the Municipal Council in Khasra No.264 and some chambers had been constructed for disposal of green garbage by the Municipal Council who is seeking to develop the remaining area into a park and parking space. The injunction had been granted by the Addl.District Judge on 28.01.2021 only on the ground that the plaintiff in that case was Khewatdar and had proprietary rights as such. It is a matter of record that the said order has been set aside in CR-559-2021 on 31.10.2022 and the Lower Appellate Court had been directed to decide the issue afresh keeping in view the law laid down by the Apex Court in **State of Haryana Vs. Jai Singh, 2022 (2) RCR (Civil) 803**.

5. The defence of respondent No.3-Municipal Committee, in its reply, is that efforts had been made to develop the area comprising in Khasra No.263 (40-11) and 264 (10-4) into a park for the benefit of the general public and there was no encroachment in Khasra Nos.263 & 264.

The photographs appended in support are stated to be of the time when

MC was laying down sewerage pipes and digging was done to lay the sewerage pipes.

6. Resultantly, keeping in view the stand of the respondents, we are of the considered opinion that the effort by the writ petitioner is apparently for staying the development work and further construction which would not be maintainable in a writ jurisdiction. If the petitioner has any grouse, he can initiate proceedings by way of Civil Suit before the Court of Competent jurisdiction. It has already been noticed that the Civil Suit of a similarly situated person namely Gurmel Singh is also pending and the Learned Single Judge has set aside the injunction granted to the said person and remanded the matter for fresh decision. Reliance upon the directions issued by the Co-ordinate Bench pertaining to Dharambir Sharma (supra) is pertaining to the State of Haryana and in particular to certain observations made by the Lokayukt, Haryana which led to some recommendations on which directions have been issued and are in no way germane to the present controversy.

7. Resultantly, in view of the above discussion, the present writ petition stands disposed of, with the aforesaid liberty.

(G.S. SANDHAWALIA)
JUDGE

04.11.2024
Sailesh

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned :	Yes	
Whether Reportable :		No